

By: Price

H.B. No. 2215

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the adoption of desired future conditions for aquifers
3 in groundwater management areas and the consideration of those
4 conditions in the regional water planning process.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 16.053(e), Water Code, as amended by
7 Chapters 756 (H.B. 2031), 990 (H.B. 30), and 1180 (S.B. 1101), Acts
8 of the 84th Legislature, Regular Session, 2015, is reenacted and
9 amended to read as follows:

10 (e) Each regional water planning group shall submit to the
11 development board a regional water plan that:

12 (1) is consistent with the guidance principles for the
13 state water plan adopted by the development board under Section
14 16.051(d);

15 (2) provides information based on data provided or
16 approved by the development board in a format consistent with the
17 guidelines provided by the development board under Subsection (d);

18 (2-a) is consistent with the desired future conditions
19 most recently adopted under Section 36.108 for the relevant
20 aquifers located in the regional water planning area, ~~[as of the~~
21 ~~date the board most recently adopted a state water plan under~~
22 ~~Section 16.051 or, at the option of the regional water planning~~
23 ~~group, established subsequent to the adoption of the most recent~~
24 ~~plan,]~~ provided, however, that if no groundwater conservation

1 district exists within the area of the regional water planning
2 group, the regional water planning group shall determine the supply
3 of groundwater for regional planning purposes; the Texas Water
4 Development Board shall review and approve, prior to inclusion in
5 the regional water plan, that the groundwater supply for the
6 regional planning group without a groundwater conservation
7 district in its area is physically compatible, using the board's
8 groundwater availability models, with the desired future
9 conditions adopted under Section 36.108 for the relevant aquifers
10 in the groundwater management area that are regulated by
11 groundwater conservation districts;

12 (3) identifies:

13 (A) each source of water supply in the regional
14 water planning area, including information supplied by the
15 executive administrator on the amount of modeled available
16 groundwater in accordance with the guidelines provided by the
17 development board under Subsections (d) and (f);

18 (B) factors specific to each source of water
19 supply to be considered in determining whether to initiate a
20 drought response;

21 (C) actions to be taken as part of the response;
22 and

23 (D) existing major water infrastructure
24 facilities that may be used for interconnections in the event of an
25 emergency shortage of water;

26 (4) has specific provisions for water management
27 strategies to be used during a drought of record;

1 (5) includes but is not limited to consideration of
2 the following:

3 (A) any existing water or drought planning
4 efforts addressing all or a portion of the region and potential
5 impacts on public health, safety, or welfare in this state;

6 (B) approved groundwater conservation district
7 management plans and other plans submitted under Section 16.054;

8 (C) all potentially feasible water management
9 strategies, including but not limited to improved conservation,
10 reuse, and management of existing water supplies, conjunctive use,
11 acquisition of available existing water supplies, and development
12 of new water supplies;

13 (D) protection of existing water rights in the
14 region;

15 (E) opportunities for and the benefits of
16 developing regional water supply facilities or providing regional
17 management of water supply facilities;

18 (F) appropriate provision for environmental
19 water needs and for the effect of upstream development on the bays,
20 estuaries, and arms of the Gulf of Mexico and the effect of plans on
21 navigation;

22 (G) provisions in Section 11.085(k)(1) if
23 interbasin transfers are contemplated;

24 (H) voluntary transfer of water within the region
25 using, but not limited to, regional water banks, sales, leases,
26 options, subordination agreements, and financing agreements;

27 (I) emergency transfer of water under Section

1 11.139, including information on the part of each permit, certified
2 filing, or certificate of adjudication for nonmunicipal use in the
3 region that may be transferred without causing unreasonable damage
4 to the property of the nonmunicipal water rights holder; and

5 (J) opportunities for and the benefits of
6 developing large-scale desalination facilities for:

7 (i) marine seawater that serve local or
8 regional entities; and

9 (ii) [~~(J) opportunities for and the~~
10 ~~benefits of developing large-scale desalination facilities for~~]
11 seawater or brackish groundwater that serve local or regional
12 brackish groundwater production zones identified and designated
13 under Section 16.060(b)(5);

14 (6) identifies river and stream segments of unique
15 ecological value and sites of unique value for the construction of
16 reservoirs that the regional water planning group recommends for
17 protection under Section 16.051;

18 (7) assesses the impact of the plan on unique river and
19 stream segments identified in Subdivision (6) if the regional water
20 planning group or the legislature determines that a site of unique
21 ecological value exists;

22 (8) describes the impact of proposed water projects on
23 water quality; and

24 (9) includes information on:

25 (A) projected water use and conservation in the
26 regional water planning area; and

27 (B) the implementation of state and regional

1 water plan projects, including water conservation strategies,
2 necessary to meet the state's projected water demands.

3 SECTION 2. Sections 36.108(d) and (d-3), Water Code, are
4 amended to read as follows:

5 (d) The [~~Not later than September 1, 2010, and every five~~
6 ~~years thereafter, the~~] districts shall consider groundwater
7 availability models and other data or information for the
8 management area and shall propose for adoption desired future
9 conditions for the relevant aquifers within the management area.
10 Before voting on the proposed desired future conditions of the
11 aquifers under Subsection (d-2), the districts shall consider:

12 (1) aquifer uses or conditions within the management
13 area, including conditions that differ substantially from one
14 geographic area to another;

15 (2) the water supply needs and water management
16 strategies included in the state water plan;

17 (3) hydrological conditions, including for each
18 aquifer in the management area the total estimated recoverable
19 storage as provided by the executive administrator, and the average
20 annual recharge, inflows, and discharge;

21 (4) other environmental impacts, including impacts on
22 spring flow and other interactions between groundwater and surface
23 water;

24 (5) the impact on subsidence;

25 (6) socioeconomic impacts reasonably expected to
26 occur;

27 (7) the impact on the interests and rights in private

1 property, including ownership and the rights of management area
2 landowners and their lessees and assigns in groundwater as
3 recognized under Section 36.002;

4 (8) the feasibility of achieving the desired future
5 condition; and

6 (9) any other information relevant to the specific
7 desired future conditions.

8 (d-3) After the earlier of the date on which all the
9 districts have submitted their district summaries or the expiration
10 of the public comment period under Subsection (d-2), the district
11 representatives shall reconvene to review the reports and [7]
12 consider any district's suggested revisions to the proposed desired
13 future conditions. Not later than January 5, 2022, the district
14 representatives shall [~~7~~ ~~and~~] finally adopt the desired future
15 conditions for the management area. Subsequent desired future
16 conditions shall be proposed and finally adopted by the district
17 representatives before the end of each successive five-year period
18 after that date. The desired future conditions must be adopted as a
19 resolution by a two-thirds vote of all the district
20 representatives. The district representatives shall produce a
21 desired future conditions explanatory report for the management
22 area and submit to the development board and each district in the
23 management area proof that notice was posted for the joint planning
24 meeting, a copy of the resolution, and a copy of the explanatory
25 report. The report must:

26 (1) identify each desired future condition;

27 (2) provide the policy and technical justifications

1 for each desired future condition;

2 (3) include documentation that the factors under
3 Subsection (d) were considered by the districts and a discussion of
4 how the adopted desired future conditions impact each factor;

5 (4) list other desired future condition options
6 considered, if any, and the reasons why those options were not
7 adopted; and

8 (5) discuss reasons why recommendations made by
9 advisory committees and relevant public comments received by the
10 districts were or were not incorporated into the desired future
11 conditions.

12 SECTION 3. To the extent of any conflict, this Act prevails
13 over another Act of the 85th Legislature, Regular Session, 2017,
14 relating to nonsubstantive additions to and corrections in enacted
15 codes.

16 SECTION 4. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2017.